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Mr Phil Bradley  
via "What Do They Know"

Your Ref  
Our Ref

27 June 2011



Dear Mr Bradley

INTERNAL REVIEW TO FREEDOM OF INFORMATION CASE

**ICO Reference: FS50387112, BIS Reference: 10/2471**

You asked for internal reviews to be undertaken for the Freedom of Information requests you made to the Department of Business, Innovation and Skills (BIS) referred to above.

I am replying to points raised in the letter from the Information Commissioner's Office to the Department for Business, Innovation and Skills dated 7 June 2011.

Please accept my sincere apologies for the delay in responding to your requests as well as the excessive time taken to complete this review. As you have been made aware in correspondence from DCMS relating to other FoI requests you have submitted, a major contributing factor in this delay has been the physical and electronic transfer of data and staff from BIS to DCMS during the early part of the year. In addition to this, a prolonged staff illness also led to delays in responding to your original request for an internal review to be actioned.

On 18 October 2010, you asked BIS to provide you with:

*'Correspondence between DDBIS and representatives of the creative industry relating to:*

- copyright (term, enforcement, policy, infringement, piracy, economy, importance, law), or*
- a Memorandum of Understanding, or*
- the BPI (British Recorded Music Industry/ British Phonographic Industry) or,*
- UK Music, or*

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*- legislative consultation from 16 June 2009,*

*All from 1/8/2008 to 1/9/2009, with minutes please.*

BIS replied to this request on 12 November 2008 informing you that it did not possess the information you had requested. It informed you that the responses to the Consultation on P2P file sharing could be found on the BIS website and provided the address. This information was therefore exempt under section 21 of the Freedom of Information Act 2000 (the 'Act') as it is already accessible to you.

BIS informed you that it might be helpful to refine your request if there was information you particularly wished to obtain. On 22 November 2010 you provided BIS with further information concerning this request.

I have now completed the internal review of this case.

The internal review process covers the information you originally sought and does not cover any follow up questions you may have made in the light of our responses. Much of the correspondence held by BIS regarding the Digital Economy Bill, and Act, including the responses to its public consultation which ran from 16 June 2009 to 29 September 2009, are in the public domain and can be found at:

<http://webarchive.nationalarchives.gov.uk/+http://www.bis.gov.uk/policies/business-sectors/digital-britain/letters>

All the responses to the BIS consultation on Peer to Peer filesharing can be found at:

<http://www.bis.gov.uk/Consultations/illicit-p2p-file-sharing>

You can also access responses to the consultation at:

<http://webarchive.nationalarchives.gov.uk/20091204145232/http://interactive.bis.gov.uk/digitalbritain/category/consultations/>

This site also includes responses directly to DCMS which are not hosted on the BIS website.

In addition, other comments from interested parties can be found at:

<http://webarchive.nationalarchives.gov.uk/20091204145232/http://interactive.bis.gov.uk/digitalbritain/2009/08/filesharing-some-accusations-and-some-answers/>

Using the information that you subsequently provided to clarify the request, we have undertaken additional searches of our records at DCMS and BIS.

As a result of these searches, I am now satisfied that we have identified all the correspondence identifiable in relation to the subjects stated in your request and which occurred during the requested timescale and these can be accessed through the above links.

You suggested that the original response should have identified more correspondence. I would agree that the initial response seems to take a limited definition of the scope of the original request. However, it would, in any case, proved difficult to provide a full list of correspondence for a number of reasons:

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- In my opinion the request is still broad enough to require a search of all the correspondence that took place in the context of the Digital Britain review to identify whether the issues covered by the request were covered: This would certainly have cost more than the FoI cost threshold of £600 which equates to 3.5 days of finding and extracting the information.
- It is not clear whether this request is limited to music industry representatives, or if it also covers internet companies, broadcasters etc.;
- It may not be straight-forward to produce a definitive list of all the correspondence that BIS received where copyright was mentioned. Copyright issues are likely to have been mentioned in correspondence covering a number of issues.
- Therefore the request would have needed to be much more specific about which aspect of the creative/industry/copyright issues you were interested in, before it could be answered.

I note that the reply sent to you by BIS explains the application of Section 21 of the FoI Act. It is my view that this was correctly applied and the appropriate information was given to you about how to access the appropriate material that was already within the public domain.

You could, of course, also make a new request focusing on correspondence received before September 2009 if you wish to do so, bearing in mind the points raised above as to what would make such a request possible to respond to effectively. I should warn you though, that the problems around access to files transferred from BIS still exist although all efforts are being made to resolve them.

A copy of this letter has been sent to Nicola Humphries at the Information Commissioner's Office as requested in her e-mail of 7 June 2011.

If you are not content with the outcome of this internal review, you have the right to apply directly to the Information Commissioner's Office for a decision. The Information commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 4AF.

**Rachel Clark**

Head of Creative Economy Telecoms and Internet